THE HON'BLE Ms. JUSTICE G. ROHINI

–

WRIT PETITION No.8890 OF 2006

–

ORAL ORDER:

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This writ petition is filed seeking a declaration that the proceedings of the 2nd respondent dated 9.12.2005 as arbitrary and illegal and also for a further declaration that the action of the 4th respondent-Andhra Pradesh Dairy Development Co-operative Federation Limited, in not accepting a sum of Rs.45,000/- from the petitioner to be remitted to the 3rd respondent-Indian Railway Catering and Tourism Corporation, as arbitrary and illegal.

The facts, which are not in dispute, are as follows:

The 4th respondent was permitted by the 2nd respondent by letter dated 8.11.2004 to establish three extension counters of Vijaya Dairy Parlour at Tirupati Railway Station. In pursuance thereof, the 4th respondent allowed the petitioner to run the extension counters, and accordingly, the petitioner has been running the said extension counters having obtained a licence from the Medical Department of the Railways. While so, the 2nd respondent issued show cause notices dated 21.09.2005 and 8.11.2005 calling upon the 4th respondent to explain as to why the licence of the three extension counters at Tirupati Railway Station should not be terminated on certain grounds specified thereunder, including non-payment of the amount. It appears that the 4th respondent sought time for payment and submitted his explanation. However, the 4th respondent could not make payment, and consequently, by letter dated 9.12.2005 issued by the 2nd respondent, the licence given to the 4th respondent to run three extension counters was terminated with immediate effect and the 4th respondent was also called upon to pay arrears of licence fee to the tune of Rs.45,000/- together with electrical charges to the Station Manager, Tirupati, immediately.

The petitioner states that as a matter of fact, he had paid Rs.15,000/- on 28.03.2005 towards tentative licence fee for the stalls in question and that he had installed the

said stalls at his own cost by spending huge amount. He also pleaded that the income out of the stalls installed in the Railway Station is the only source of livelihood for his family, and therefore, if the stalls are closed, he would stand to suffer irreparable injury. It is also contended that the order of termination was passed behind his back and at no point of time any opportunity was afforded to him by the 2nd respondent to put forth his version. The petitioner also pleaded that as a matter of fact, he was willing to pay the arrears of Rs.45,000/- and requested the 3rd respondent-Corporation to accept the same and allow him to run the stalls; however, cheques were returned to him and his request was not considered. Hence, this writ petition contending that the entire action of the respondents is arbitrary and illegal.

I have heard the learned counsel for the petitioner as well as the learned standing counsel appearing for the Railways.

At the outset, it is to be noted that admittedly, the licence to run three extension counters at Tirupati Railway Station was granted in favour of the 4th respondent. On account of certain lapses on the part of the 4th respondent, the 2nd respondent having issued show cause notices terminated the said licence. May be that the petitioner has been running the stalls and by virtue of the impugned termination, he would be adversely affected, however, since there was no privity of contract between the petitioner and the respondents 1 to 3, the petitioner cannot explain that the termination of licence was arbitrary, illegal and in violation of principles of natural justice on the ground that the same was terminated behind his back. Undoubtedly, the petitioner is only a stranger so far as respondents 1 to 3 are concerned. The mere fact that he was authorized by the 4th respondent to run the extension counters will not confer any right, muchless any legal right, on the petitioner to seek a mandamus by invoking the jurisdiction under Article 226 of the Constitution of India. If the petitioner is aggrieved, it is always open to him to work out appropriate common law remedy against the 4th respondent for redressal of his grievance if any.

The writ petition is misconceived and devoid of any merit. Accordingly, the same is dismissed. No costs.

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(G. ROHINI, J.)

28th April, 2006.

Kgr

THE HON'BLE Ms. JUSTICE G. ROHINI

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WRIT PETITION No.8890 OF 2006

28th April, 2006.

Between:

G. Rammohan. .. Petitioner.

And

The Senior Divisional Commercial Manager,

South Central Railway, Gunthakal Division,

Gunthakal and three others. .. Respondents.